

STATE OF NEW YORK  
SUPREME COURT, COUNTY OF NASSAU

\_\_\_\_\_  
"B.B."

Plaintiff,

**INDEX NO:**

-against-

**SUMMONS**

JOHN BROBSON

Defendant.  
\_\_\_\_\_

To the above-named Defendant:

YOUR ARE HEREBY SUMMONED and required to serve upon plaintiff's attorneys a verified answer to the verified complaint in this action within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: August 27, 2019  
New York, New York



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Kathleen Thomas, Esq.

[kat@tlcpc.law](mailto:kat@tlcpc.law)

THOMAS LABARBERA COUNSELORS AT LAW  
11 Broadway, Suite 615  
New York, NY 10004  
Ph: (917) 209-6446

**DEFENDANT'S ADDRESS:**

JOHN BROBSON  
11105 Shannondell Dr., #105  
Norristown, PA 19403-2336

STATE OF NEW YORK  
SUPREME COURT, COUNTY OF NASSAU

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"B.B."

Plaintiff,

INDEX NO:

-against-

VERIFIED COMPLAINT

JOHN BROBSON

Defendant.

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Plaintiff, by and through her attorneys, Thomas LaBarbera Counselors At Law, P.C. as and for her Complaint in this matter against Defendant JOHN BROBSON, hereby allege as follows:

NATURE OF CLAIM

1. This case is brought pursuant to New York's Child Victims Act ("CVA") (CPLR § 214-g).
2. Plaintiff timely brings her causes of action within the one year "retroactive revival window" which removes the previously applicable statute of limitations.

JURISDICTION AND VENUE

3. This Court has personal jurisdiction over the Defendant pursuant to CPLR § 301 and § 302 (2), in that defendant committed tortious acts within the State of New York.
4. This Court has jurisdiction over this action because the amount of damages Plaintiffs seek exceed the jurisdictional limits of all lower courts that would otherwise have jurisdiction.
5. Venue for this action is proper in the County of Nassau pursuant to CPLR § 503, in that the Plaintiff resides in this County.

PARTIES

6. Plaintiff "B.B." is a resident of the State of New York whose identity and address are not disclosed herein due to her desire to keep confidential her identity and address because she was a victim of child sexual abuse and pursuant to New York Civil Rights Law § 50-b.

7. Defendant JOHN BROBSON is a resident of the State of Pennsylvania who committed tortious acts against Plaintiff within the State of New York.

STATEMENT OF FACTS

8. Plaintiff re-alleges and incorporates by reference each and every allegation contained in the preceding and subsequent paragraphs as though fully set forth herein.

9. Upon information and belief, the facts and background currently known to the PLAINTIFFS are as follows:

10. Plaintiff is the maternal granddaughter of Defendant JOHN BROBSON.

11. Beginning in approximately 1991, Defendant JOHN BROBSON began sexually abusing Plaintiff when she was approximately six years old, and continued to abuse Plaintiff on several occasions until plaintiff was approximately 11 years old.

12. The sexual abuse took place in both the State of New York and the State of Pennsylvania.

13. The several incidents of sexual abuse that occurred in New York took place at Plaintiff's parent's home in Valley Stream, NY.

14. Defendant JOHN BROBSON sexually abused plaintiff, including, but not limited to kissing, fondling, sexually rubbing, and forcibly touching the intimate parts of plaintiff for the purpose of gratifying Defendant's own sexual desire.

15. As a result of Defendant JOHN BROBSON's actions, Plaintiff suffered, and continues to suffer serious psychological and emotional damages, including but not limited to the following: emotional distress, panic attacks, humiliation, lack of sleep, shame, depression, anxiety, fear of touch, intrusive thoughts, inability to meaningfully engage in social settings, and a severe form of invasion of privacy.

16. As a result of Defendant JOHN BROBSON's actions, Plaintiff had to seek mental health care treatment and continues receive treatment.

**AS AND FOR A FIRST CAUSE OF ACTION AS AGAINST DEFENDANT  
PURSUANT TO THE CHILD VICTIMS ACT**

17. Pursuant to the Child Victims Act ("CVA") Defendant JOHN BROBSON is liable for the intentional and negligent acts and omissions which constitute child sexual abuse, and resulted in serious physical, psychological, and emotional harms suffered by Plaintiff.

18. The CVA § 3 states:

"... every civil claim or cause of action brought against any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age... which conduct was committed against a child less than eighteen years of age, which is barred as of the effective date of this section because the applicable period of limitation has expired... is hereby revived, and action thereon may be commenced not earlier than six months after, and not later than one year and six months after the effective date of this section."

19. The CVA references Article 130 of the New York Penal Law. Article 130 defines the sexual offenses for which a claim under the CVA may be brought.

20. Plaintiff alleges that the following definitions at issue to her claims are as follows:

1) NY CLS Penal Law § 130.52: **Forcible touching.**

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose:

1. forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person, or for the purpose of gratifying the actor's sexual desire;



2) NY CLS Penal Law § 130.55 **Sexual abuse in the third degree.**

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent

3) NY CLS Penal Law § 130.55 **Sexual abuse in the second degree.**

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Less than fourteen years old.

4) NY CLS Penal Law § 130.65 **Sexual abuse in the first degree.**

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person **is less than eleven years old**; or
4. When the other person is less than thirteen years old and the actor is twenty-one years old or older.

5) NY CLS Penal Law § 130.75 **Course of sexual conduct against a child in the second degree**

1. A person is guilty of course of sexual conduct against a child in the second degree when, over a period of time not less than three months in duration:

- (a) he or she engages in two or more acts of sexual conduct with a child less than eleven years old; or
- (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct with a child less than thirteen years old.

21. Pursuant to NY CLS Penal Law § 130.05 Plaintiff was incapable of consent to any and all sexual misconduct committed against her for which forms the basis of Plaintiff's causes of actions.

22. As a direct and proximate result of the Defendant's sexual assaults and child sexual abuse as defined by the CVA and Article 130 of the New York Penal Law, Plaintiff sustained in the past and will sustain in the future physical injury, pain and suffering, serious and severe psychological and emotional distress, mental anguish, embarrassment, shock, shame,

anxiety, guilt, self-blaming, nightmares, lack of sleep, humiliation, inability to meaningfully engage in social settings, and a severe form of invasion of privacy.

**AS AND FOR THE SECOND CAUSE OF ACTION**  
**FOR NEGLIGENCE, GROSS NEGLIGENCE, AND BREACH OF DUTY OF CARE**  
**WHERE PLAINTIFF WAS UNDER A DISABILITY**

23. Plaintiff incorporates by reference the above and below allegations of this complaint as though fully set forth here.

24. At all times relevant and when Defendant committed child sexual abuse against Plaintiff, Defendant willingly and knowingly undertook and exercised care, custody and control over Plaintiff.

25. At all times relevant, Plaintiff was under the disability of infancy that limited her ability to protect herself from injury.

26. Defendant knew that Plaintiff was under the disability of infancy while Plaintiff was under the care, custody, and control of Defendant.

27. At all times relevant, Defendant owed Plaintiff a duty of care to reasonably ensure and take reasonable precautions to ensure Plaintiff's safety from foreseeable harms and injuries.

28. Defendant knowingly, willfully, recklessly, and with gross negligence breached his duty of care to protect Plaintiff against the harms and injuries caused by child sexual abuse.

29. Defendant knowingly, willfully, recklessly, and with gross negligence breached his duty of care by failing to protect and promote plaintiff's right to personal privacy.

30. Defendant knowingly, willfully, recklessly, and with gross negligence breached his duty of care by failing to protect and promote his plaintiff's right to be free from all forms of sexual abuse.

31. As a direct and proximate result of the Defendant's breach of duty owed to Plaintiff who was under the disability of infancy at the times of the causes of action herein, Plaintiff sustained in the past and will sustain in the future physical injury, pain and suffering, serious and severe psychological and emotional distress, mental anguish, embarrassment, shock, shame, anxiety, guilt, self-blaming, nightmares, lack of sleep, humiliation, inability to meaningfully engage in social settings, and a severe form of invasion of privacy.

**AS AND FOR THE THIRD CAUSE OF ACTION**  
**FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

32. Plaintiff incorporates by reference the above and below allegations of this complaint as though fully set forth here.

33. At all times relevant, Defendant intentionally, recklessly and with wanton malice, acted in a manner so shocking and outrageous that it exceeds all reasonable bounds of decency.

34. At all times relevant, Defendant is liable to plaintiff for intentional infliction of emotional distress against Plaintiff by committing child sexual abuse

35. The sexual abuse that Defendant committed against Plaintiff was so severe, and of the intensity and duration that no reasonable person should be expected to endure it.

36. Defendant's conduct cause severe emotional distress, psychological, mental and other emotional harms as described herein.

37. Defendant acted intentionally and/or recklessly with the desire to cause such distress to plaintiff; and under circumstances known to Defendant which made it substantially certain that severe emotional harm would follow; and acted with utter disregard of the consequences that would likely follow.

38. As a direct and proximate result of the Defendant's intentional infliction of emotional distress, Plaintiff sustained in the past and will sustain in the future physical injury,



pain and suffering, serious and severe psychological and emotional distress, mental anguish, embarrassment, shock, shame, anxiety, guilt, self-blaming, nightmares, lack of sleep, humiliation, inability to meaningfully engage in social settings, and a severe form of invasion of privacy.

39. Defendant's sexual assault of Plaintiff, as set forth herein, constitutes intentional, extremely malicious, wanton, reckless and outrageous conduct.

40. Such grossly reckless conduct is motivated by greed, self-seeking and self-interest deliberate indifference, deviant sexual desire and is the product of malicious mind such that imposition of punitive damages is warranted against Defendant.

41. Punitive damages are justified in cases like this to both punish the wrongdoers and also to hold them out as examples to the rest of the community such that Defendants and others that may be similarly situated are clearly and explicitly discouraged from engaging in these kinds of grossly deviant and abhorrent behaviors in the future.

42. For purposes of particularization of the Defendant's acts which constitute and mandate the imposition of punitive damages was intentionally sexually assaulting and/or abusing to Plaintiff who was a young child at the time of abuse and therefore under the disability of infancy, and unable to consent.

43. Punitive damages are indicated and necessary against the Defendant under the facts.

44. Defendants' actions were negligent, grossly negligent, willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiffs.

45. The limitations on liability set forth in CPLR 1601 do not apply by reason of one or more of the exemptions set forth in CPLR 1602.



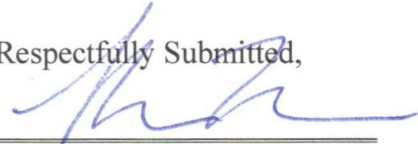
**WHEREFORE**, Plaintiff "B.B.", demands judgment against Defendant JOHN BROBSON for general, compensatory, special and punitive damages, in a sum which exceeds the jurisdictional limits of all lower Courts which might otherwise have jurisdiction; together with the costs and disbursements of this action and for such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

Dated: August <sup>27</sup>, 2019  
New York, New York

Respectfully Submitted,



Kathleen Thomas, Esq.

[kat@tlcpc.law](mailto:kat@tlcpc.law)

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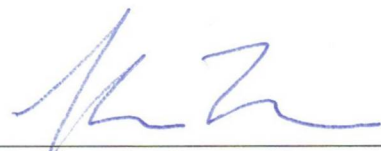
**ATTORNEY'S VERIFICATION**

**KATHLEEN R. THOMAS**, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at **THOMAS LABARBERA COUNSELORS AT LAW, PC**, attorneys of record for Plaintiff. I have read the annexed **SUMMONS AND COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

This verification is made by me because the plaintiff in this matter is not presently in the county wherein I maintain my offices.

Dated: New York, New York  
August 27, 2019

  
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Kathleen R. Thomas, Esq.